IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5734 of 1989

For Approval and Signature:

HON'BLE MR. JUSTICE ANANT S DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

KALAVATI K PAI

Versus

EMPLOYEES STATE INSURANCE SCHEME

Appearance:

1. Special Civil Application No. 5734 of 1989

MRS DT SHAH for Petitioner No. 1

Mrs. Manisha L. Shah, AGP for Respondent No. 1-3

CORAM : HON'BLE MR. JUSTICE ANANT S DAVE

Date of decision: 20/10/2004

ORAL JUDGEMENT

1. This petition under Article 226 of the Constitution of India is directed with manifold prayers including to grant retiral dues to the petitioner. It is

further prayed that the departmental enquiry, which was initiated for stale charges against the petitioner, was bad in law and the prolonged enquiry has resulted into continuous agony and unending problems to the petitioner. While admitting the petition, this Court has, time and again, given directions to the Department to complete the enquiry as early as possible, and, thereafter also, by filing Civil Applications, the respondents requested for extension of time to complete enquiry and two interim orders came to be passed on 4.2.1991 and, thereafter, on 14.8.1991. The order dated 14th August 1991 has specifically recorded about the prolonged departmental enquiry and the unjust stand taken by the Authorities in continuation of the same. This Court has, finally, observed as under:

"In this view of the facts, I think a stricter and harsher view is required to be taken against the respondents. Therefore, the following order at this juncture is passed.

"Notwithstanding the fact the inquiry may be pending against the petitioner, the respondents-authorities are directed to finalise the retiral benefits of the petitioner within four weeks from now and to pay her whatever is found to be payable to her by way of final retiral benefits within six weeks from now."

2. However, today, when the matter is called out for final hearing, the learned advocate for the petitioner states that she is getting 100% provisional pension and she has no knowledge about other retiral dues. However, as per the Government Resolutions, even when the departmental enquiry is pending, 10% of the amount of gratuity can be kept in abeyance, and the rest of the amount is to be released. Till today, the stage of departmental enquiry or outcome thereof is not placed on record of the petition.

3. Under the circumstances, the respondents-Authorities are directed to strictly comply with the interim directions given by this Court vide order dated 14th August 1991, and, the outstanding retiral dues, if not paid so far, to be paid within eight weeks from the date of receipt of writ of this order, otherwise, it will entail 7% interest per annum from the date of retiral dues having become due and payable to the petitioner. It is open for the petitioner to challenge the outcome of the departmental enquiry, if any, by taking appropriate measures.

4. Rule is discharged with no order as costs.

(Anant S. Dave, J.)

(swamy)